

In the Matter of)
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Telecommunications Services) CG Docket 03-123
For Individuals with Hearing and Speech) CC Docket No. 98-67
Disabilities)
)

Ultratec, Inc. files these comments in response to the compensation rates proposed by the National Exchange Carriers Administration (NECA) for the period from July 2005 through June 2006. Ultratec urges the FCC to reject NECA's proposed combined reimbursement rate for traditional interstate TRS and IP relay minutes because there is now a discrepancy between the average costs submitted for each of these services. Accepting this rate will unfairly penalize providers of traditional relay service and impose unnecessary and excessive costs on the Interstate TRS Fund. Ultratec urges the Commission to direct NECA instead to sever the rates for IP relay and traditional relay services, in order to provide fair compensation that can accurately reimburse the costs associated with each of these offerings.

In April 2002, the Federal Communications Commission (FCC) authorized reimbursement of all IP relay minutes from the Interstate TRS

Fund. At that time, the Commission directed IP relay minutes to be reimbursed at the PSTN-based traditional TRS rate per minute, under the assumption that there was hardly any difference in the costs of providing traditional and IP relay services:

WorldCom states that IP Relay and PSTN-based TRS calls exhibit very similar cost and demand characteristics. Particularly, WorldCom notes that the cost savings it enjoys from the absence of certain network based charges is offset by the additional cost of establishing and maintaining the Internet gateway and the hardware and software to provide relay service via the Internet. We therefore believe that, at least *in the interim*, the cost recovery for IP Relay-based TRS calls should be the same as the cost of PSTN-based TRS calls.¹

The FCC's statement, that it was using this cost recovery method for IP relay services on an interim basis only, was accompanied by a directive to NECA and the TRS Advisory Council to "carefully examine any differences in the costs of providing IP Relay and PSTN-based TRS."² In taking this action, the FCC left the door open to a re-determination of this cost recovery method if so warranted by the actual costs associated with each of these services.

On April 25, 2005, NECA submitted to the FCC its proposed TRS payment formulas for July 2005 through June 2006. In its narrative, NECA reported that average per minute costs for traditional TRS ranged from \$1.176 to \$3.58 for 2005 and from \$1.207 to \$3.812 for 2006. The range of the average cost per minute for IP relay was appreciably lower, from \$1.04 to \$2.053 for 2005 and from \$1.012 to \$2.062 for 2006. From these figures,

¹ Declaratory Ruling and Second Further Notice of Proposed Rulemaking FCC 02-121, 17 FCC Rcd 7779 (2002) at ¶22 (emphasis added).

² Id. at ¶23.

NECA produced an average per minute cost per minute of \$1.44 for traditional relay and an average cost per minute of \$1.278 for IP relay. Despite this price differential, NECA was required to follow the FCC's directive to produce a single rate for both traditional TRS and IP relay. When NECA averaged the costs of both services together, the combined per minute reimbursement rate became \$1.312.

As NECA points out, the average cost per minute for IP relay services is \$0.162 less than the average cost per minute for traditional interstate TRS minutes.³ In addition, the combined per minute rate is \$0.128 less than the average cost per minute rate for traditional TRS. As proposed then, this scheme provides compensation for IP relay services at a rate that exceeds the costs for providing these services; at the same time, the combined rate falls below the average expenditures for providing traditional TRS.

Under the FCC's rules, TRS providers must submit to NECA "true and adequate data necessary to determine TRS fund revenue requirements and payments."⁴ The regulations state that as the Fund Administrator, NECA is to take this data and determine TRS payments that are "designed to compensate TRS providers for reasonable costs of providing interstate TRS. . ."⁵ The Commission then has the responsibility to review NECA's proposed

³ NECA Narrative Filing on Payment Formula and Fund Size Estimate, Interstate Telecommunications Relay Services Fund for July 2005 through June 2006 at 13 n.21.

⁴ 47 C.F.R. § 64.604(c)(5)(iii)(C).

⁵ 47 C.F.R. § 64.604(c)(5)(iii)(E).

rates, and to approve or modify those proposed rates.⁶ In its June 2004 Rate Order, the FCC explained that “[t]his process of establishing the reasonable compensation rates for the various forms of TRS reflects the Commission’s twin obligations of ensuring that providers are compensated for the ‘reasonable’ and ‘fair’ costs of providing eligible TRS services, and ensuring the integrity of the Interstate TRS Fund.”⁷

Ultratec submits that the proposed combined IP-traditional rate will fail to accomplish either of these objectives: it will not compensate traditional TRS providers for their reasonable and fair expenses, and it will fail to safeguard the integrity of the TRS Fund because that fund will have to pay more for services than those services actually cost. Accordingly, Ultratec urges the FCC to reject the combined rate, and to direct NECA to calculate separate rates for traditional and IP relay services that truly reflect the average costs associated with each of these services. This result will ensure equitable compensation for the providers of these services and better serve the public interest by directing more accurate disbursements from the TRS Fund.

Respectfully submitted,

_____/s/_____
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⁶ *In the Matter of Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98-67, DA 04-1999 at ¶10 (June 30, 2004), citing 47 C.F.R. § 64.604(c)(5)(iii)(E).

⁷ *Id.*

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